MINUTES
of the
LEGISLATIVE CONSUMER COMMITTEE
December 10, 2004
State Capitol, Room 137, Helena, MT

COMMITTEE MEMBERS PRESENT

Senator Walter McNutt, Chairman
Representative Gary Matthews, Vice Chairman
Senator Debbie Shea
Representative Alan Olson

STAFF PRESENT

Robert A. Nelson, Consumer Counsel
Larry Nordell, Economist
Mary Wright, Attorney
Mandi Shulund, Secretary

VISITORS PRESENT

Casey Barrs, Legislative Services Division
Todd Everts, Legislative Services Division

CALL TO ORDER

The meeting was called to order by Chairman McNutt.

MINUTES OF THE PREVIOUS MEETING

MOTION: Representative Olson moved approval of the minutes of the September 17, 2004 meeting.

VOTE: The motion passed unanimously.

INTRODUCTIONS:

Bob introduced Casey Barrs, who is scheduled to staff the House Energy Committee.

STATUS OF CASES PENDING - BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES CURRENTLY PENDING:

NorthWestern Energy

03-12872 - Bankruptcy Proceeding: The bankruptcy proceedings have been transferred from Judge Case, based in Arizona, to Judge Peterson in Butte and as far as MCC is concerned, the proceedings are finished. An order was issued on 10/19/04 confirming NWE's second amended plan of reorganization effective 11/1/04, which technically means that NWE is out of bankruptcy. The effect of the plan was to reduce debt from $2.1 billion to $853 million, with the remaining debt being converted to 35.5 million shares of common stock. Some miscellaneous matters are still pending before the court and an appeal of the order confirming the plan filed by Magten on behalf of the trust preferred holders is also pending. Magten is also contending that the transfer of MPC's assets from the limited liability corporation to the parent corporation was a fraudulent conveyance. There is a $50 million fund set aside, if needed, for the outcome of pending issues with no affect on the status of the bankruptcy. MCC has been reimbursed for participating in the bankruptcy in the amount of $383,190, which will be deducted from MCC's appropriation during the next tax calculation rate period, effective 10/1/05.

N2004.10.166 - Statement of Factors for Evaluating Proposals to Acquire NWE: The PSC appears to be trying to be proactive in issuing guidelines for all parties interested in acquiring NWE's assets, even though NWE claims they are not for sale and that they don't intend to change their operations. The agreement between the PSC, MCC and NWE during the settlement of the bankruptcy will be binding on NWE 's successors, which is provided for in that agreement. The Commission stated that a superior acquisition proposal would have certain features in several different areas. In the area of financial strength, the Commission is looking for no acquisition adjustment recovery, for example, if an acquirer paid more than book value, the Commission does not want the acquirer to try and include that above book acquisition premium in rates. The Commission would like to see a revenue requirement filing on the agreed to schedule of 9/30/06 and commitments to ring fencing, pension plan funding, and long-term ownership. In the area of energy supply, the Commission is looking for commitments to follow their portfolio guidelines to develop a balanced portfolio and to engage in RFP processes to acquire resources. The Commission also expressed an interest in eligibility for preference power, which would favor potential Cooperative acquirers, and they are looking at a similar approach to natural gas supply acquisition, basically through a balanced portfolio and RFP process. The Commission is also looking for a commitment to full implementation of the Liberty Infrastructure Audit and a Montana focus, which means they would like to see the company separated from the South Dakota and Nebraska operations. It is unsure at this point what impact these guidelines will have but they should be of interest to someone looking to acquire NWE. Senator McNutt asked Bob if, under the current Commission agreements, the Montana focus and separation from South Dakota and Nebraska are still issues. Bob said the Commission attempted to get a separation of operations in South Dakota and Nebraska, but that didn't happen as a result of the agreement. What did happen, however, was a commitment to include Montana based employees on the energy supply board and to base some of the higher-level executives in Montana. The result was to get more of a presence in Montana, but not a corporate realignment that would take away the other operations.

D2004.7.114 - Electric Trackers: The October Electric Tracker filed 9/15/04 resulted in a residential rate decrease to $.0041169/kWh, or 2.7%; The November Electric Tracker filed 10/15/04 resulted in a residential rate increase to $.043106/kWh, or 4.7%; The December Electric Tracker filed 11/15/04 resulted in a residential rate decrease to $.04141/kWh, or 2.3%.

D2004.9.60 - Annual Electric Default Supply Tracker: The monthly trackers are followed by an annual filing in order to true up any problems that may arise and to recover un-recovered accounts. This filing was consolidated with the prior year filing that was suspended due to the bankruptcy proceeding, so a two-year period is currently being reviewed. In the first year, NWE already reduced their request by $3 million dollars due to an error Frank found in how they accounted for their un-reflected account. One issue that has recently come up with the annual trackers is the return of the industrial customers and the potential impact on rates for the remaining default customers. The PSC issued Interim Order 6574 on 7/28/04 approving both filings on an interim basis, including the reduction that Frank found. MCC will soon be filing testimony addressing several issues, one being how NWE has dealt with replacing their QF volumes that were agreed to in the stranded cost calculation part of the Tier 2 settlement. Also in the settlement, it was agreed that QF power be supplied at a certain volume at a fixed price of $32.75. To the extent NWE couldn't supply these volumes, QF's still had to be supplied at $32.75, based on replacements purchased on the market with the same load shape as the QF resources they were replacing. There were some periods during these two years where the QF resources weren't available so NWE had to buy replacement power. For example, if NWE purchased power at $40.00 to replace the power at $32.75, that was their risk but if power was priced at $20.00 to replace the $32.75, NWE got the benefit of that. NWE spread the purchases out annually allowing them to allocate the cheapest power to the replacement power rather than allocating it at the time they needed it, but the agreement called for replacing power in the same shape as it was lost. This resulted in a significant difference, which MCC and NWE have discussed and which has resulted in suspension of the procedural schedule. USB allocation and how much should be allocated to market transformation and conservation and low-income assistance is another issue, as well as the return of the industrial customer load. A stipulation is in the works to allocate approximately $621,000 of the conservation funding that NWE has allocated to the tracker and is reflecting in their RFP process, so there is possibility that $621,000 could be allocated on an emergency interim basis for this winter's low income discounts. With respect to returning large customers, NWE's initial calculation of the impact to remaining customers was that they had to incur an additional $2.8 million in supply expense to serve those customers coming back. Bob feels this is a soft number and there is probably some impact, but how much and how to deal with it is subject to debate. Also, a different schedule for each returning customer would amount to dozens of different rates. This is a complicated issue that is being worked through.

RFP Process: NWE has filed a Notice of Intent to file an application for Advanced Approval, which they are required to do by Commission rule, within the next few months. They are currently reviewing their short list proposals.

D2004.6.96 - NWE Annual Avoided Cost Compliance Filing, Schedules QFLT-1 and STPP-1: NWE filed their Annual Avoided Cost Compliance Filing on 6/25/04. MCC did intervene and is monitoring the filing, even thought this issue does not have much impact on default customers.

D2004.7.113 - Gas Trackers: The October Gas Tracker filed 9/15/04 resulted in a gas cost decrease from $5.7654 to $5.3951 (Residential rates decreased from $8.60 to $8.23, or 4.5%); The November Gas Tracker filed 10/15/04 resulted in a gas cost increase from $5.3951 to $6.305 (Residential rates increased from $8.23 to $9.14, or 11.1%); and The December Gas Tracker filed 11/15/04 resulted in a gas cost decrease from $6.305 to $6.176 (Residential rates increased from $9.14 to $9.01, or 1.4%).

D2004.6.88 - Annual Review of Monthly Gas Trackers: Last year's annual true-up was suspended due to the bankruptcy proceedings so just over a 24 month period is being reviewed. This is a complicated issue because in the first year of this proceeding, the Commission required adjustments that take into account adjustments that NWE was ordered to make in the prior tracker which were highly controversial relating to the prudence of NWE's acquisition practices. Bob feels that if NWE continues these adjustments into this tracking period, it would amount to a several million-dollar adjustment. George Donkin reviewed this tracking period on MCC's behalf and did not find any indication of imprudence so MCC entered into a stipulation with NWE to resolve the gas tracker issues. The stipulation agrees that the Commission should approve all costs that NWE requested recovery of in these trackers except for $200,000 relating to an interest expense dispute. NWE is currently talking with the Commission about settling the prior case. NWE also agreed to form an Advisory Committee, which MCC agreed to participate in, to try and develop procurement practices and recommend rules to the Commission similar to the electric procurement guidelines. The first meeting of the Advisory Committee is 12/13/04 and the Commission has not yet acted on the stipulation.

D2004.7.99 - NWE Application for Adjustment to Natural Gas Universal System Benefits Charge: NWE applied for a decrease in the gas USB charge but technically this would amount to an increase because the decrease relates to what was a 6 month charge intended to recover a 12 month shortfall. On a long-term basis this is an increase from 5 to 7 cents an mcf.

D2004.8.137 - NWE Application to the Montana PSC for Approval of the Issuance of Securites: This filing flows from the bankruptcy proceeding. These securities were intended to pay for NWE's agreement with Harbert Management, who represents the Class 8A parties. The Commission issued Final Order 6596 on 9/29/04 approving the filing with some conditions. This docket relates to FERC Docket ES04-043.

ES04-043 - FERC Docket: This docket relates to the same securities as Docket D2004.8.137 and there is concurrent jurisdiction between FERC and the Montana PSC. MCC intervened in this docket primarily to insure that the conditions the Commission imposed were recognized by FERC. MCC followed the same procedure in a prior securities docket, where FERC agreed to recognize The Montana PSC's order.

D2004.11.186 - NWE Application for Automatic Rate Adjustment and Tracking for Taxes and Fees: This filing stems from changes in the 2003 legislature that allowed for automatic recovery of tax increases if the utilities ask that they be tracked. Energy West recently went through this process and NWE filed an application in November for an increase of their tax expenses, which figures to be a .35% increase for electric and .2% increase for gas, or just under a million dollars combined. The Commission issued a Notice of Application and Notice of Determination of Error, which asked for comments from other parties. The Commission determined that an error was made in how NWE set up recovery of projected taxes and asked for comments on the correctness of their calculation for the deductibility of property and transmission taxes for income tax purposes. Bob feels that NWE was correct in their calculation of tax projections and tracker applications so MCC did not comment on this issue, but MCC did comment on the deductibility issue, indicating that the Commission should not accept the way NWE handled this because NWE calculated the income tax effect of the deductibility and then grossed it up to account for the income tax. MCC suggested the Commission apply the same Energy West precedent here. The statute states that the utility has to take into account the net effect of the deductibility of property taxes. This is not entirely clear so the Commission will have to sort this out and possibly get clarification during the 2005 legislative session.

Montana Dakota Utilities

D2004.5.69 - Monthly Gas Cost Tracker: The December monthly tracker filed 11/10/04 resulted in an increase of $1.86/dk showing current gas costs of $9.55/dk.

D2004.4.50 - Application to Increase Natural Gas Rates: A hearing was held in this docket on 11/17/04 and is currently in the briefing phase.

Williston Basin

RP00-107-000: This is a general rate case where substantial refunds are pending but are held up by a transportation rate issue. MCC filed testimony not opposing the switch the transportation customer wants, on the condition there is no negative impact on the firm transportation rates that MDU pays. Williston Basin asserts that the impact would be a $2.2 million increase, although Bob feels it is debatable whether there is any increase and if so, it is probably not as large as $2.2 million. FERC has indicated an inclination to allow what the transportation customer wants, so MCC is trying to be amenable to this while also protecting the consumers.

PacifiCorp

D97.7.91 - PacifiCorp Restructuring Plan: This case has been pending since 1997 and was ready for Commission decision in 1998, but was held up due to several events, including the sale to Flathead Electric and issues in the Montana Power docket that needed to be resolved before being addressed in this docket. MCC basically concluded that Pacificorp owed ratepayers over $60 million due to stranded benefits. In 1997, when SB390 was passed, the utilities had put forth the notion that generation was worth less than reported on the books and when generation was separated from the utility in restructuring, that they would be owed money from the ratepayers. MCC never actually accepted their calculations and when testimony was filed, MCC made the case that the generation was worth more than it appeared on the books, which turned out to be the case for Montana Power when they sold the generation. The generation gain was credited against the regulatory assets and QF obligations, so several hundred million dollars was returned to ratepayers through the netting process. In the case of Pacificorp, they sold their distribution operation and kept their generation, so the opposite was done in this case. Because of this, MCC felt the hearing needed to be continued on the valuation of that generation and what might be owed to ratepayers. MCC calculated in excess of $60 million and the large industrials calculated a figure close to that. The PSC staff, after the hearing, issued a memo reported in the press that they calculated stranded benefits of around $15 million, which Bob felt was a debatable calculation, but they did conclude that substantial benefits should be paid back. The Commission issued Final Order 5987h on 10/28/04, finding that they do have jurisdiction despite the sale and passage of several years. Restructuring laws actually say the Commission had to issue an order within 9 months of the filing, so a timing issue also exists. The PSC found that the legislature didn’t fashion a remedy for stranded benefits and focused on the language of transition charges, concluding that the statute requires a transition charge to be a liability exacted from a customer, not from the utility. Under general legislative authority preceding SB390, they could have balanced these equities. MCC filed a motion for reconsideration, stating the Commission failed to consider other provisions in SB390, such as netting and the intent to protect ratepayers. One of the preliminary statements in SB390 is that the purpose was to protect ratepayers through provisions of SB390, one provision being that there should be no advantage or disadvantage to any particular utility and that all utilities should be treated equally. Pacificorp responded strongly on the jurisdictional argument, stating since they are no longer a public utility in Montana and due to the passage of 9 months, the Commission no longer has jurisdiction. MCC's motion failed on a 2-2 vote, (Commissioner Rowe is the only current Commissioner who has heard the case and since Commissioner Schneider was involved as a representative for one of the parties, he excused himself). MCC is considering filing a petition for review of the PSC decision, which Bob feels obligated to do because of the amount of money at stake. Also, because of the recognition even by the Commission that there are stranded benefits and with Pacificorp believing that there is no remedy, MCC believes that the legislature did intend there would be protection to the ratepayers and a remedy in this situation. This would be a one-time situation that wouldn't have any future application because it applies retroactively to Pacificorp.

Energy West

D2004.2.16 - General Rate Increase-West Yellowstone: The Commission issued Interim Order 6551a on 10/15/04 implementing the stipulation MCC entered into with Energy West on 7/16/04.

D2004.3.46 - General Rate Increase-Great Falls: The Commission denied Energy West's request to waive the requirement to file allocated cost of service studies. An agreement had been reached on the necessary revenue requirement increase, but EWM subsequently filed an allocated cost of service study recommending how the revenue should be allocated, proposing a substantial increase that would double customer charges. EWM proposed an equal allocation to all customers except for the entire Negotiated Contract class, which includes Malmstrom and Montana Refining.George Donkin filed testimony on behalf of MCC on 12/2/04, agreeing that the rate increase should be allocated equally to all customers except for Malmstrom and Montana Refining. Mr. Donkin concluded there was no reason to exclude the other Negotiated Contract customers from the allocation and recommended no increase in the customer charge beyond the overall increase.

D2004.8.131 - Monthly Trackers: The November monthly tracker filed 10/11/04 resulted in a residential rate increase, bringing the new rate to $7.55/mcf and the December monthly tracker filed 11/10/04 resulted in a residential rate increase, bringing the new rate to $8.67/mcf.

PPL Montana

FERC Docket No. ER99-3491 PPL Montana Market Power Issues: MCC is involved in several dockets involving market base rate authority and market power issues relating to PPLM. PPLM recently filed their triennial review in compliance with a recent FERC docket in which MCC had participated. That docket established new market screens for determining market power. In this docket, PPL asserts they meet the two indicative screens to establish the existence of market power. MCC filed a protest and request for hearing on 11/30/04, indicating the majority of generation available to NWE default supply is controlled by PPL and disagreeing with their transmission capacity calculation. MCC also feels PPL overstated the amount of their capacity committed to serve native load and they deducted all of the capacity committed under current contracts that expire in 2007. NWE is working on replacing those contracts in its current RFP, but PPL deducted all of that generation from its market power analysis claiming they are already committed to long-term contracts, which MCC believes is incorrect. MCC believes PPL’s import numbers were overstated and when regional markets and the amount of generation that is available for import were reviewed, MCC thinks they included generation that is committed to other utilities’ customers.

Miller Oil Company

D2004.10.168: This application was filed on 10/19/04 for a propane rate increase of $66,387 or a 17% overall increase and MCC will be intervening.

Utility Enterprises

D2004.8.129: Utility Enterprises is a new private water utility south of Kalispell. They filed for initial rates on 8/10/04 and MCC has intervened.

Wilder Resorts, Inc.

D2003.10.152 and D2003.12.173 - Increase Rates and Charges for Water Service and Initial Rates for Sewer Utility: These applications are requests to have rates more than doubled. Frank filed testimony on 7/14/04 recommending a 39% increase in revenues. MCC submitted a stipulation agreeing to a 40% increase, which was approved in Final Order 6569a issued on 11/10/04.

MARY WRIGHT PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES CURRENTLY PENDING:

Long Distance Cases

D2002.12.153 - Qwest Long Distance Corporation (QLD) and D2003.10.153 - Qwest Communications Corporation (QCC): Qwest's second application for long distance service was filed by QCC and follows the same pattern as the QLD case. MCC filed a stipulation entered into with Qwest, stating that a hearing would not be necessary because the issues were resolved in the first QLD case. That stipulation is set for hearing on 12/20/04.

Eligible Telecommunications Carriers (ETC): ETC cases stem from the 1996 Federal Telecommunications Act giving state commissions authority to determine whether telecommunications providers would be eligible to receive universal service funds.

D2003.1.14 and D2003.8.105 - Western Wireless Holdings and Mid-Rivers/Cable and Communications Corporation: Both of these cases have gone to hearing. The Western Wireless case has been briefed and Motions for Reconsideration are pending. The Mid-Rivers Cellular case briefing period begins on 12/17/04.

D2003.2.23 - 3 Rivers Telephone Cooperative: MCC has reviewed this application and felt no need to file testimony.

D2003.10.156 - 3 Rivers Wireless; D2004.1.8 - Northern Communications, Inc.; D2004.1.5 - InterBel Wireless, Inc.; D2004.1.6 - Triangle Communications Systems, Inc.; D2004.1.7 - Sagebrush Cellular, Inc.; D2004.3.36 - Blackfoot Communications, Inc.; D2004.3.38 - Range Telephone Cooperative; D2004.8.127 - VCI Company: These cases are either awaiting a procedural schedule or have had a procedural order suspended and will be processed in the future. Also, there is rulemaking currently underway that was proposed by Montana Independent Telecommunications System and Montana Telecommunications Association advocating that the Commission establish rules at the state level for granting eligible telecommunications carriers and laying out conditions for them receiving federal universal service funds. A hearing was held on 12/3/04.

Extended Area Service

D2002.11.145 - Northern Telephone Cooperative, Inc/Qwest: Northern Telephone Cooperative has applied for regional EAS in the Shelby-Cut Bank area. After completion of Phase I, Northern requested to suspend the proceedings, so this case is awaiting a new procedural order.

D2003.1.8 - Blackfoot Telephone Cooperative/Qwest; D2002.10.132 - Triangle Telephone Cooperative Association, Central Montana Communications, Inc/Qwest; D2003.6.84 Lincoln Telephone Company/Qwest; D2004.2.17 - Ronan Telephone Company/Qwest/Blackfoot: These cases have all been approved by the Commission and are in the process of being implemented. These applications for EAS must be revenue neutral, both for the applying company and for Qwest, into whose exchanges the new telephone service is going. Because of all of these approvals, Qwest’s monthly increment charge will go from $2.44 to $2.81. This charge is assessed to all Qwest customers statewide that are in extended area service regions.

Local Number Portability: LNP is a requirement of federal law that says an incumbent telephone company must be able to port numbers to competitors, mostly wireless companies. There are some unresolved issues at the federal level, including that the local exchange customers who do not ask for their number to be ported must bear all the costs of that porting.

D2004.3.39 - Ronan Telephone/Hot Springs Telephone & MTA/MITS: All MITS/MTA companies and Ronan and Hot Springs filed for suspension of LNP. All companies that petitioned except for Ronan and Hot Springs entered into settlements with Western Wireless that resolved all of the issues so it was not necessary for them to participate in the hearing. These settlements, which have been approved, generally set different dates for LNP compliance. These companies now have to upgrade their software and receive training, among other things, so they will be able to port these numbers. Another main provision is that Western Wireless agreed to interconnect with all of these companies, which would almost completely eliminate transport charges and it will be much less expensive for the companies to comply with LNP. A hearing was held on 9/9/04 involving Ronan and Hot Springs and the Commission recently issued Final Order 6558l on 11/30/04, stating that Hot Springs didn’t have to comply with LNP because there is no usable wireless signal in the Hot Springs area and Ronan hadn’t satisfactorily proved the federal statutory criteria or that LNP was an unduly economically burdensome, technically infeasible, and that it imposed an undue economic burden on users generally. The Commission ordered Ronan to become LNP capable by 1/1/06.

Intercarrier Compensation: Intercarrier compensation is the means by which telecommunications carriers compensate each other for use of their facilities and several national coalitions of carriers have made proposals for reform. The Commission held a roundtable on 6/29/04 to discuss related Montana-specific intrastate issues. In addition, the PSC and MCC participated in a forum sponsored by NARUC to consider proposals advanced by several industry groups with respect to intercarrier compensation. The trade press reports that the FCC is expected to ask for comments or a notice of proposed rule making on intercarrier compensation soon.

Court Cases

CV 03-20-H-CCL (Federal District Court for the District of Montana, Helena Division) Ronan Telephone Company vs. Montana PSC: This case has activity that goes back to 1998. Ronan telephone feels that they shouldn't have to interconnect with Blackfoot under the Telecommunications Act of 1996 because of their rural exemption. Ronan feels that they don't have to negotiate and no one can make them interconnect, however, they did end up negotiating and did interconnect. The case has been fully briefed before the Federal District Court in Helena and is awaiting a decision.

CDV 2003-464 (Montana First Judicial District, Lewis and Clark County) Qwest vs. PSC and MCC: This case involves Commission authority to require that Qwest submit information for review of Qwest overearnings as their annual reports indicate. Qwest has challenged some orders from the Commission, saying they couldn't make Qwest reprove its rates or carry the burden of proof. The judge agreed, but MCC feels that in some respects his order was not correct and the Commission recently voted to appeal this decision to the Supreme Court.

BDV 2003-465 (Montana First Judicial District, Lewis and Clark County) PSC vs. Qwest: This case is a competitor case to CDV 2003-464 (Montana First Judicial District, Lewis and Clark County). The Commission filed an appeal before a different judge, who said he would defer to the first judge because the cases were filed so close together.

03-9617 - Qwest Communications International vs FCC and United States of America (United States Court of Appeals for the Tenth Circuit): MCC is participating in this case, but just through briefing. Qwest is challenging certain FCC determinations regarding the high cost portion of the federal Universal Service Fund. This case has been fully briefed, oral argument has been held and we are now awaiting the court decision.

GRID WEST

Larry Nordell handed out a diagram of the blueprint forming Grid West, which included decision points and hurdles that had to be overcome. On 12/9/04 the bylaws were adopted, which is Decision Point 1 and the first hurdle. There has been considerable pressure put onto Bonneville by its public customers over the past several months, directly and through the Washington Congressional Delegation and the Court system to try to keep them from proceeding and to shut down the process. This effort has been led by Shonomish Public Utility District of Seattle. In September, Bonneville Power came to the RRG with a list of 35 changes it needed in the bylaws for them to be able to sign off on Decision Point 1. The changes BPA wanted were in several different areas, including financial accountability, which were relatively non-controversial. Another area of changes led toward increased authority by the stakeholders and members of the organization over the board. A concern these changes brought up was that they could gridlock the organization by providing a number of ways members could vote to remand, that board decisions require a second vote or super majority vote in order to make certain changes, and to force a waiting period before the board could take any action. The third area of changes was to remove the blueprint for how Grid West would operate beyond the stating date, which related to the platform proposal that was devised about a year and a half ago, and by which the initial operation would be a fairly modest set of changes from the current status. The organization could progress to liquid transmission rights and very active congestion management only by taking these staged steps over a period of time, each step having the hurdles of membership vote and members' representative committee votes. BPA wanted all these references to this blueprint for progress to an ending point with financial and liquid rights removed from the bylaws. The controversial changes that BPA wanted were going to be very difficult to get resolved, so coordinator Bud Krogh organized a small group to figure out how to deal with them. At the last RRG meeting, the group presented a proposal that basically gave BPA all but a few changes that they wanted. This was done without much advance notice or discussion by the RRG and created a lot of unhappiness. Nevertheless, with a discussion including the Montana PSC and NWE, it was decided, despite the changes, that this process was worth continuing and that NWE continue its efforts. At the most recent RRG meeting held on 12-9-04, the discussion among the RRG members was mostly supportive of the filing utilities continuing and signing the bylaws at this stage with several exceptions. The three representatives of the Washington Publics opposed any signing of the bylaws or progress at this point. So the publics are not unanimous in this view and the generating publics are supportive of Decision Point 1. Seattle City Light has broken ranks at this point and is sitting in on the RRG, indicating that they would continue to work with the organization. It has been a long and contentious process getting to Decision Point 1. The projected schedule is May for Decision Point 2, at which time the developmental corporation board would be seated and the developmental corporation would be formed. Decision Point 3 would be a decision that the operating agreement is sufficiently formed to send it out to the transmission users to sign and Decision Point 4 is a decision to form the operational board and engage the operational corporation, tentatively scheduled for 2007. Bob added that even though MCC is strongly in favor of continuing this process, there are still questions regarding the cost benefits issue for further analysis.

FINANCIAL REPORT

The current financial report was presented to the committee. This report runs a month or two behind so it is difficult at this point to make an assessment but Bob feels that there are currently no concerns.

COUNSEL PERSONNEL

Frank Buckley is retiring on 12/31/04 and is willing to work part time, but will have to be off of payroll for 30 days. Bob asked the committee for approval to bring Frank back part time (up to 960 hours) at $54.59 per hour. A full time replacement will also need to be hired, and that process will begin soon. This would provide a full time rate analyst to hopefully be on board by March with Frank available to help train and work on cases pending. There are many dockets that are continuing into next year that Frank has been working on so continuity is important. Bob proposes to amend the budget request to add a half time FTE, in order for Frank to continue at half time. The half time FTE is planned at a grade 17, but this could go a little higher for someone with experience. Senator McNutt asked Bob how long he felt Frank needed to be part time. Bob said for the foreseeable future there is a need for a half time FTE, and if that were Frank, it would be an advantage and provide a cost savings relative to having to hire contracted services, until there is someone with enough qualifications to file testimony and stand cross examination based on their qualifications. Bob sees having a half time FTE as a longer-term situation.

MOTION: Senator McNutt moved to amend the budget request to reflect an additional part time FTE, adding $30,275 in personal services and $2,976 in one time supplies, and retain Frank on a part time basis not to exceed 960 hours annually at an hourly rate of $54.59.

VOTE: The motion passed unanimously.

Other Business

MOTION: Senator McNutt moved approval to hire the services of George Donkin to review the Energy West Allocated Cost of Service Docket, which Bob and Senator McNutt discussed previously.

VOTE: The motion passed unanimously.

Public Comments

Based on HB94 requirements, a public comment period was offered, but none was given.

Adjournment

There being no further business to come before the committee, the meeting adjourned.

Respectfully submitted,

___________________________________, Robert Nelson, Consumer Counsel

Accepted by the Committee this _____ day of ______________________, 2005

____, Chairman